



COMMUNITY DEVELOPMENT DEPARTMENT
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Website Address: www.morgan-hill.ca.gov

PLANNING COMMISSION MEETING MINUTES

REGULAR MEETING

JUNE 27, 2006

PRESENT: Acevedo, Koepp-Baker, Benich, Davenport, Escobar, Mueller

ABSENT: Lyle

LATE: None

STAFF: Community Development Director (CDD) Molloy Previsich, Planning Manager (PM) Rowe, Senior Planner (SP) Marlatt, Business Assistance and Housing Services Director (BAHSD) Toy, Senior Civil Engineer (SCE) Creer, Contract Planner (CP) Bischoff and Minutes Clerk Balagso.

Chair Benich called the meeting to order at 7:03 p.m.

DECLARATION OF POSTING OF AGENDA

Minutes Clerk Balagso certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

OPPORTUNITY FOR PUBLIC COMMENT

With no members of the audience indicating a wish to address matters not on the agenda, the time for public comment was closed.

PUBLIC
HEARING:

**1) ZA-06-10: CITY
OF M.H.–TEXT
AMENDMENT TO
CHAPTER 18.47,
AFFORDABLE
HOUSING BONUSES
AND OTHER
INCENTIVES, AND
CHAPTER 18.55,
SECONDARY
DWELLING UNITS**

An amendment to Title 18, Chapter 18.47 of the Morgan Hill Municipal Code, amending the Density Bonus provisions for affordable housing to be consistent with the State Density Bonus Law as set forth in Section 65915 of the California Government Code. A further amendment is also proposed under Chapter 18.55 of the Municipal Code, eliminating the Conditional Use Permit requirement and eliminating the local street standards for secondary dwelling units.

PM Rowe stated that the item was advertised for public hearing for this meeting, however the report was not ready at the time of distribution of the meeting packet. He added that the amendments are related to the Housing Element, which will be on the July 11 meeting agenda.

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Chair Benich opened the public hearing, and as there was no one in the audience indicating a wish to address this matter, Chair Benich closed the public hearing.

COMMISSIONER MUELLER OFFERED A MOTION TO CONTINUE THE ITEM TO THE JULY 11, 2006 MEETING. COMMISSIONER ACEVEDO SECONDED THE MOTION, WHICH PASSED WITH THE FOLLOWING VOTES: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, ESCOBAR, MUELLER; NOES: NONE; ABSTAIN; NONE; ABSENT: LYLE.

**1) ZA-05-09/
DA-05-08/SD-05-10:
CHURCH-ALCINI**

A request for approval of a precise development plan, subdivision and development agreement for a 3.5-acre site located on the northwest corner of the intersection of Monterey Rd. and Biscaglia Ave. The precise development plan includes 14 single-family attached units, 30 multi-family units and 11,200 sq. ft. of commercial spaces.

PM Rowe reported that this item is continued from the June 13, 2006 Commission meeting to allow staff and the applicant to meet address the applicant's questions and concerns regarding the amount of their Measure C impact fee commitments. That meeting was held June 21, 2006 and the fee issues were resolved. PM Rowe outlined the changes in the Development Agreement which were specified in the staff report. PM Rowe advised that the applicant requested a 90-day extension of the "final map", "building permit submittal" and "obtain building permit" dates at the June 13th public hearing. He then presented the Staff recommendations of the following extensions of time:

- 1) Final Map – 10-30-06
- 2) Building Permit Submittal – 11-15-06
- 3) Obtain Building Permit – 2-28-07

PM Rowe added that there have been no changes to the PUD or subdivision.

Commissioner Mueller asked if the applicant will provide fees in-lieu of construction of certain projects. SCE Creer responded that the fees will be received to fund projects in the downtown, such as improvements on Monterey Road, north of the Post Office. Commissioner Mueller asked if having the developer provide in-lieu fees is prohibiting the City from completion of projects due to the higher cost of having the City do the actual improvements. SCE Creer explained that the work is still done by a private developer and since it is not a City project, the funding goes back to the other developer through a reimbursement agreement. Therefore, it would be a private development and a staff administrative project.

Chair Benich reopened the public hearing.

Vince Burgos of Development Process Consultants stated that he was not able to attend the last June 13 Commission meeting, but that he has been working with staff to make recommended changes in the Development Agreement. He reported that on Page 8 (i) Housing Needs, the sentence should reflect "two" moderate units, not "four". Chair Benich asked for confirmation that there will still be two moderate units and three BMRs. Mr. Burgos confirmed those figures.

With no members of the audience indicating a wish to address this item on the agenda, Chair Benich closed the public hearing.

COMMISSIONER ACEVEDO OFFERED A MOTION TO APPROVE THE MITIGATED NEGATIVE DECLARATION. COMMISSIONER MUELLER SECONDED THE MOTION, WHICH PASSED WITH THE FOLLOWING VOTES: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, ESCOBAR, MUELLER; NOES: NONE; ABSTAIN; NONE; ABSENT: LYLE.

COMMISSIONER ACEVEDO OFFERED A RESOLUTION APPROVING THE RECOMMENDATION OF THE ZONING AMENDMENT APPLICATION, ZA-05-09: CHURCH-ALCINI, AND THE MONITORING PLAN. COMMISSIONER MUELLER SECONDED THE MOTION, WHICH PASSED WITH THE FOLLOWING VOTES: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, ESCOBAR, MUELLER; NOES: NONE; ABSTAIN; NONE; ABSENT: LYLE.

COMMISSIONER ACEVEDO OFFERED A RESOLUTION APPROVING THE RECOMMENDATION OF THE DEVELOPMENT AGREEMENT APPLICATION, DA-05-08: CHURCH-ALCINI, WITH A CHANGE ON PAGE 8, SECTION (i) HOUSING NEEDS, TO REFLECT "TWO" MODERATE RATE UNITS. COMMISSIONER MUELLER SECONDED THE MOTION, WHICH PASSED WITH THE FOLLOWING VOTES: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, ESCOBAR MUELLER; NOES: NONE; ABSTAIN; NONE; ABSENT: LYLE.

COMMISSIONER MUELLER OFFERED A RESOLUTION APPROVING THE 14-LOT SUBDIVISION APPLICATION, SD-05-10: CHURCH-ALCINI. COMMISSIONER DAVENPORT SECONDED THE MOTION, WHICH PASSED WITH THE FOLLOWING VOTES: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, ESCOBAR MUELLER; NOES: NONE; ABSTAIN; NONE; ABSENT: LYLE.

**3) ZAA-03-03:
FOOTHILL-THE
INSTITUTE/AIM**

A request for an amendment to a Precise Development Plan for an existing PUD to allow an approximately 167,500 sq. ft. above ground mathematics conference center with a 34,385 sq. ft. underground garage and a new surface parking lot to replace an existing parking lot on an approximately 54 acre site located at 14830 Foothill Ave.

The staff report was presented by SP Marlatt, which provided background on the project via a power point presentation. The applicant proposes to amend the Precise Development Plan adopted in 2004 to allow for a building of approximately 167,500 square feet. The building will replicate (as closely as possible) the Alhambra in Granada Spain, a Moorish castle. He outlined the proposed uses of the building: 24 conferences per year; after school math enrichment programs for students and teachers, math tutoring, workshops, and lectures. The staffing required for the Institute has also increased to meet a level adequate for the proposed uses.

The proposed height of the building is 62 feet. The current base height in the zoning district is 25. The Zoning ordinance does allow exceptions for institutional buildings. Buildings above 50 feet in height require Architectural Review Board approval, which was recommended on May 18th.

As part of application submittal, the applicant provided 9 views of the structure. SP Marlatt

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presented five of these views to the Commission. SP Marlatt provided views of structure and presented information on CEQA requirements and the types of documents that can be prepared depending upon the changes to a project. Staff retained the consulting firm of Pacific Municipal Consultants (PMC) to prepare either a Supplemental EIR or EIR Addendum. Upon review of the analysis prepared by

PMC, staff believed the EIR Addendum was the appropriate CEQA document. He noted representatives from PMC were present to answer any questions pertaining to the EIR Addendum.

As part of the Site Review Application, SP Marlatt stated staff requests the Commission to consider making a recommendation on a waiver of the undergrounding utilities requirement due to special circumstances and conditions affecting the property. SP Marlatt outlined those circumstances and conditions. He added this requirement can be waived by City Council with a recommendation from the Planning Commission. Both Planning and Public Works staff reviewed these conditions and believe the requirement can be waived. He noted that representatives from PMC were present to answer any questions.

Commissioner Acevedo asked questions regarding the In Lieu Fees and the rural condition of the area, specifically Foothill Road. He recalled that the Circulation Element of the General Plan calls for the expansion of Hill Road, which connects to Foothill Road.

SP Marlatt responded that the property is surrounded by unincorporated area, of which only a small segment is located along Foothill Road is within the City limits. PM Rowe stated that the portion of the General Plan that refers to Hill Avenue is much farther south than the subject property. Commissioner Acevedo stated that this issue could be similar to Gilroy's decision to select Santa Teresa as a rural highway; that decision affected Morgan Hill. He added once fees have been waived, the City will not be able to collect those fees in the future. CDD Molloy Previsich stated that the subject property is surrounded by property not within the City's sphere and therefore the City will not underground utilities in that area. CDD Molloy Previsich clarified staff's request that the underground utility requirement would be waived and the In Lieu Fees would also be waived. She explained the Municipal Code requires an applicant to either underground utilities or pay the fee unless there is an exception.

Commissioner Acevedo stated that he believes recommending a fee waiver would be short sighted. He asked if it would be an acceptable compromise to require a Deferred Improvement Plan. SP Marlatt responded that Deferred Improvement Plans typically have an expiration date. Commissioner Acevedo noted that he had signed one with the County with no expiration date. Commissioner Mueller stated that he is not aware of any current or future plans to construct a rural highway on the eastside that runs the length of the City. Commissioner Acevedo stated that the City should prepare itself for the effects of future development. PM Rowe stated that the Circulation Plan map calls for Hill Road to be 4 lanes from Cochrane Avenue to Tennant Avenue and reduced to 2 lanes south of Tennant Avenue.

Vice-Chair Escobar asked for the City's requirement for the minimum number of parking spaces for a facility of this size. SP Marlatt responded that the Zoning Ordinance does not contain a parking category that "neatly fits" this use. Staff's recommendation is based in the analysis in the EIR Addendum, which states the planned number of parking spaces will

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be adequate based on the facility uses described by the applicant. Vice-Chair Escobar stated the number of parking spaces proposed seems excessive, based on the number needed for the intended use.

Chair Benich opened the public comment.

Kevin Robins of the American Institute of Mathematics (AIM) identified himself as the applicant. He provided a video presentation depicting the facility in 3D. He noted the video does not depict the vegetation that is already planted and will remain. He added that the Flying Lady Restaurant had 2 tiers of parking, and that 1 parking tier has been removed as part of the project.

Upon conclusion of the video, Vice-Chair Escobar asked for the clearly defined needs of the AIM that required the larger building. Kevin Robins described the intended uses for the building, which require lecture facilities, housing for mathematicians, libraries, etc. He added that the AIM website provides a description of the intended uses. The local community will be invited to participate in workshops by invitation.

Chair Benich asked if the AIM was aware of the direction of the institute several years ago. Kevin Robins responded that, 2 to 3 years ago there was no floor plan that reflected all the uses. He explained that the AIM then hired an architectural firm to develop an accurate foot print for the building for all uses. Mr. Robins further explained that the original EIR consultant asked for a building size and the number of square feet provided by the AIM was not based on a floor plan. Commissioner Acevedo and Vice-Chair Escobar recalled that the first conceptual drawing depicted a 60,000 square foot building. Vice-Chair Escobar stated that the increase in the number of participants does not coincide with the large increase in square footage – the scale of the building seems large for the intended uses. He added that the full scope of the intended use is not clear. Kevin Robins responded that the drawings submitted depict complete use of every room.

Commissioner Mueller stated that he understands the architecture of the original Alhambra is not scalable; therefore, to make the design work, the replica must contain the original proportions. Mr. Robins responded that the arches, details and finishes of the original Alhambra could not be reduced in order to maintain the integrity of the building.

Scott Stotler, building designer, stated that the original exterior elevations completed in 2001/2002 did not capture the true spirit of the original Alhambra, which was built over an 800-year period. He added that the goal of the AIM is to collect copies of every math book printed in history. Therefore, the library needs be of certain proportions to house these books and duplicate the intricate tile inlays, wood work and detailed elements of the building.

Vice-Chair Escobar asked Mr. Stotler if the AIM did not have a “good handle” on the proposed project when originally submitted. Mr. Stotler responded that the AIM did not identify the needs of the project at that time. He stated that the AIM has been successful over the past 8 years, and now requires building as proposed to meet its needs.

Bent Fair identified himself as a neighbor of The Institute. His property borders the subject property on 2 sides. He is in favor of the project and believes it will be an aesthetic and cultural contribution to the community.

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Gil Mendov identified himself as a neighbor of The Institute. He is not in favor of the project. He believes a 167,000 square foot building seems excessive for the outlined needs. He indicated his concern for additional traffic, stating that he understood there would be 300 peak-hour trips. He also stated that he did not understand why the utility requirement for undergrounding would be waived.

As there were no other persons present to speak to the matter, Chair Benich closed the public hearing.

Commissioner Mueller clarified that the total number of daily trips would be around 300; these are not peak hour trips as mentioned by Mr. Mendov.

Chair Benich reopened the public hearing.

Mr. Mendov stated that he did not take distribution of traffic into account during his comments.

As there were no other persons present to speak to the matter, Chair Benich closed the public hearing.

Commissioner Mueller read aloud from the staff report which indicated that the total new daily trips are 335 with 45 during the A.M peak hours and 94 during P.M. peak hours. He added that the Flying Lady Restaurant generated more traffic than this.

Commissioner Acevedo asked if there was a provision to recover Transportation and Occupancy Tax (TOT) for the hotel-like rooms in the facility. CDD Molloy Previsich indicated that the AIM is not charging a daily rate or any fees; therefore, there would be no TOT collected.

Commissioner Mueller stated that the use of the facility is to use a team approach to solve theoretical math problems. Mathematicians from different disciplines work together for a time at the institute. He added that the AIM has been successful in this endeavor.

Commissioner Davenport stated that he was following this issue even before his appointment to the Planning Commission and is now looking at how the larger plan affects the new study done on the EIR. He stated that he believes that although the undergrounding of utilities is aesthetically pleasing, the City should not require utility undergrounding on this project, based on the General Plan. He is in favor of what is proposed.

COMMISSIONER MUELLER OFFERED A RESOLUTION APPROVING THE AMENDMENT TO THE PRECISE DEVELOPMENT PLAN FOR AN EXISTING PUD TO ALLOW FOR AN APPROXIMATELY 167,500 SQ. FT. ABOVE GROUND MATHEMATICS CONFERENCE CENTER WITH A 34,385 SQ. FT. UNDERGROUND GARAGE WITH A NEW SURFACE PARKING LOT TO REPLACE AN EXISTING PARKING LOT ON AN APROXIMATELY 54 ACRE SITE LOCATED AT 14830 FOOTHILL AVENUE. COMMISSIONER DAVENPORT SECONDED THE MOTION, WHICH PASSED WITH THE FOLLWING VOTES: AYES: KOEPP-BAKER, BENICH, DAVENPORT, MUELLER; NOES: ACEVEDO—CITING APPLICANT SHOULD PAY IN LIEU

FEES, ESCOBAR; ABSTAIN; NONE; ABSENT: LYLE.

COMMISSIONER MUELLER OFFERED A RESOLUTION APPROVING ADOPTION OF AN ADDENDUM OF THE PREVIOUSLY CERTIFIED ENVIRONMENTAL IMPACT REPORT (EIR). COMMISSIONER DAVENPORT SECONDED THE MOTION, WHICH PASSED WITH THE FOLLOWING VOTES: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, MUELLER; NOES: ESCOBAR; ABSTAIN; NONE; ABSENT: LYLE.

4) PUBLIC HEARING REGARDING ADOPTION OF HOUSING ELEMENT UPDATE

This is a City-initiated request to adopt a new Housing Element of the General Plan. The proposed Element represents a comprehensive statement of the City's current and future housing needs and proposed actions to facilitate the provision of housing to meet the needs of all income levels. The Element has been prepared in such a way as to meet the requirements of State law and local housing objectives. A Negative Declaration, finding no significant negative effects on the environment as a result of adoption of the Element, is proposed to be adopted for this project.

CP Bischoff presented the staff report, noting that this is a City-initiated request to adopt an update to the Housing Element of the General Plan. The proposed Element represents a comprehensive statement of the City's current and future housing needs and proposed actions to facilitate the provision of housing to meet the needs of all income levels. The Element has been prepared in such a way as to meet the requirements of State law and local housing objectives. A Negative Declaration, finding no significant negative effects on the environment as a result of adoption of the Element, is proposed to be adopted for this project.

CP Bischoff indicated that the changes to the Element are two-fold: 1) changes in response to the State's comments in 2002; and 2) changes necessitated because of changes in the State housing law since the original Element was drafted.

Chair Benich noted that there is no action requested from the Commission this evening. The presentation was primarily to solicit comments and questions from the Commission and the public.

Commissioner Koepp-Baker asked about the tenor of communication from the State, and if the State commented on the City's density rates. CP Bischoff responded that Morgan Hill meets a policy recently adopted by the State that requires that a sufficient amount of land be zoned at 20 units per acre to accommodate affordable housing. The State has also asked for detailed information on the Measure C projects.

CP Bischoff added there are two areas that might be of concern to the State:

- 1) Amendment of the code to specifically identify transitional housing and homeless shelters as conditional uses in zoning districts
- 2) Housing for farm workers

Commissioner Acevedo stated he understands that the purpose of the Element is to address the housing needs of all income levels. The City is spending a significant amount of time on affordable housing. He asked if the State requires this focus on affordable housing. CP Bischoff responded that the market has provided a sufficient supply of housing affordable to persons with above moderate income levels. He presented Table

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27 in the staff report which outlines the State's requirements for very low, low and moderate level housing; noting the State had challenged the City to provide additional affordable housing for the period of 1999-2006. Therefore, the City's efforts have been concentrated in this area. The City has accomplished providing a surplus of affordable housing units. Commissioner Acevedo asked if the City actually had to build the units or just have the ability to build them. CP Bischoff responded that the State requires the City to have the ability to build the units.

Chair Benich asked if the requirement for affordable housing will cease in 20 years or so, because all the available land will be developed. CP Bischoff stated the requirements are based on analysis by ABAG which is focused on the availability of land. He added that if the land now available is built out in 20 years, ABAG will look at land that could be available for redevelopment.

Chair Benich then asked a question on the consistency of the data presented. For example, census data referred to in the Element is from 2002. CP Bischoff responded that the City should have an adopted and certified Element with data currently available. The Element will be updated again in two years as required.

Chair Benich suggested the Commission begin thinking about water conservation as called for on Page 14 of the Element for future development; especially the use of gray water. Commissioner Koepp-Baker added that the League of California Cities is recommending to that all developers build a dual pipe system to facilitate use of recycled water.

Commissioner Mueller asked if the State would give credit to the City's moderate rate non-deed restricted housing. CP Bischoff responded he would research that issue.

Commissioner Koepp-Baker asked BD Director Toy if there is a report on the goals and outcomes of funding provided to Community Solutions for rehabilitation of the transitional shelter for mentally disabled individuals and domestic violence shelter. BAHSD Toy responded that information is available in quarterly reports that he will provide to Commissioner Koepp-Baker.

Chair Benich opened and closed the public hearing, seeing there was no one in the audience indicating a wish to address this item.

COMMISSIONER MUELLER OFFERED A MOTION TO CONTINUE THE ITEM TO THE JULY 11, 2006 COMMISSION MEETING. COMMISSIONER ESCOBAR SECONDED THE MOTION, WHICH PASSED WITH THE FOLLOWING VOTES: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, ESCOBAR, MUELLER; NOES: NONE; ABSTAIN; NONE; ABSENT: LYLE.

**5) SUMMER
MEETING
SCHEDULE**

A request to discuss the possible cancellation of the second Planning Commission Meeting in August.

COMMISSIONER MUELLER OFFERED A MOTION TO CANCEL THE SECOND PLANNING COMMISSION MEETING SCHEDULED FOR AUGUST 22, 2006. COMMISSIONER KOEPP-BAKER SECONDED THE MOTION,

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WHICH PASSED WITH THE FOLLOWING VOTES: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, MUELLER; NOES: NONE; ABSTAIN; NONE; ABSENT: LYLE.

ANNOUNCEMENTS: Chair Benich stated that the Commission directed staff at the May 9 meeting to send a letter to Caltrans regarding the fences Caltrans is requiring the City to construct that are against the General Plan. He requested to view a copy of the letter at the July 11th Commission meeting.

ADJOURNMENT: As there was no further business to be considered by the Commissioners at this meeting, Chair Benich adjourned the meeting at 8:48 p.m.

MINUTES PREPARED BY:

MARGARITA BALAGSO, Minutes Clerk